



## **TRUST CHARTER APPLICATION PROCESS**

Before the application is deemed complete, the applicants are required to submit a complete and thorough application and schedule an in-person meeting with the Director of the South Dakota Division of Banking (Division). An electronic fill-in version of the application can be found at the following website: <http://www.state.sd.us/drr2/reg/bank/banktrust/trustapplicationforms.htm>. Pursuant to South Dakota Codified Law (SDCL) 51A-6A-17, an independent criminal background investigation, independent credit report, and litigation report must be submitted for each incorporator, organizer, board member, manager, officer, and key employee of the proposed trust company. Persons convicted of certain crimes are ineligible participants. Criminal background investigations for public trust company individuals will be performed via fingerprints on cards provided by the Division; two fingerprint cards, one for the Federal Bureau of Investigation and one for the South Dakota Division of Criminal Investigation, must be submitted along with a check for \$43.25 for each individual receiving the background check. Criminal background investigation for private trust company individuals require only a name-based criminal background investigation performed by an independent third party, in addition to a credit report and litigation report. For both public trust companies and private trust companies, litigation reports may be provided as a third party report (preferred) or by way of a sworn affidavit if sufficiently detailed. When the application is deemed complete, the Division will publish a notice of application in the community most directly affected by the application. A 30-day comment period will commence on the publication date and at the close of the comment period, the Director is provided 15 days to issue a decision on the application. A 15-day appeal period follows for an applicant that is aggrieved by the Director's decision or an objection is filed within the 30-day comment period. Once the Order is issued, the following must be submitted to the Division before the Charter and Certificate of Authority is issued to the applicants:

- Articles of Incorporation/Organization – The Division will review and the Director will sign and forward the articles to the South Dakota Secretary of State for filing. Include a payment made payable to the “South Dakota Secretary of State” for the current filing fee plus a \$15 fee for a certified copy, to be retained by the Division;
- Proof of Capital and Insurance pursuant to SDCL 51A-6A-19;
- Proof of Pledge pursuant to SDCL 51A-6A-19.2;
- Adopted By-laws or Operating Agreement;
- Oath of Directors/Managers;
- List of Owners if not detailed in proof of Capital; and,
- Officer and Employee Schedule.

An electronic copy of the Oath of Directors/Managers, List of Owners, and Officer and Employee Schedule can be found at the following website:

<http://www.state.sd.us/drr2/reg/bank/banktrust/yearend.htm>

Trust applicants are encouraged to thoroughly review SDCL Chapter 51A-6 and 51A-6A, which pertain to the operation and creation of a South Dakota trust company and Title 55 which addresses trust law in South Dakota. These chapters are available for online viewing at <http://legis.state.sd.us/statutes/StatutesTitleList.aspx>.